

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

FRIDAY THE TWENTY FIRST DAY OF NOVEMEER
TWO THOUSAND AND THREE

: PRESENT:

THE HON'BLE DR. JUSTICE: **MOTILAL B.NAIK**

CIVIL REVISION PETITION No. **3061** of **2003**

(Petition under Section 115 OF CPC r/w. Art. 227 of Constitution of India to revise the Order of the court of the II Additional Chief Judge, City Civil Court, Hyderabad in I.A. No. 1410 of 2003 in C.M.A. No. 202 of 2003 dated 25-06-2003.)

Between:

M/s. Asian Timber Estates, having its Head Office,
at Plot No. 7, Road No.5, Banjara Hills, Hyderabad
rep.by its Proprietrix, Ch. Padmavathi

Petitioner

AND

1. M/s. K.R.Patel Co. rep. by K./R. Patel, Nanded Road Lathur, Maharashtra, India and 5-3-2/A, Ghosha Mahal, Hyderabad
2. M/s. Tropical Forestries Pvt Ltd., rep. by its Director, T.M. Anant Narayanan, 1 Shentonway, 12-03 Robina House, Singapore
3. M/s Esskay Shipping Pvt. Ltd., rep. by its Managing Director, D. No. 24-1-20, 1st Floor, Thompson Street, Visakhapatnam and customs Open Bonded warehouse, Opp: Dolphin Warehouse Godowns, Vizag Port, Visakhapatnam

Respondents

The petition coming on for hearing upon perusing the Petition and Grounds filed therein and the order of the High Court dated: 11-07-2003, 01-08-2003, 05-09-2003, 19-09-2003 and 17-10-2003 and made herein and upon hearing the arguments of Mr. C. Sindhu Kumari, advocate for the petitioner and Mr. S. Niranjan Reddy, Advocate for the Respondent No.s 1 to 3, the Court made the following

ORDER:

“ Heard the leaned counsel for the petitioner and the learned counsel for the respondents. During the course of hearing of this revision petition, both the learned counsel submitted that both the parties have entered into comprise. Today, a joint memo is filed on behalf of the petitioner and the respondents duly signed by the parties and also identified by both the counsel. The terms and conditions on which the settlement is arrived are as follows:

1. As per the High Seas Sale Agreement dated 15-11-2003 and the purchase contract dated 6-1-2003 between the parties the subject matter timber which was agreed to be sold to the petitioner is 1274.869 CBM equivalent to 45020.73 CFT. The price of this timber as per the said contract including the Customs Duty is Rs.16,030.75 per CBM equivalent to 438.911 per Cubic Feet. The Respondent and the Petitioner shall measure the available timber in CBM duly converting it into Cubic Feet by taking 1 CBM as equal to 35.315 Cubic Feet. The value of the said timber shall be estimated by calculating it by taking the price at the rate of Rs.438.911 per Cubic Feet.
2. Out of this amount a sum of Rs.30 lakhs which was already paid by the petitioner to the Respondent as per earlier orders in this Revision petition will be deducted
3. The balance amount shall be divided into 4 monthly instalments which would be payable by the petitioner to the Respondent. To facilitate such payment the petitioner shall give 4 post dated cheques in favour of the Respondent each with one month gap after the delivery of the available timber.
4. The 1st Respondent shall exchange each cheque on which it is payable with a demand draft for the amount covered by the cheque.
5. The petitioner and the Respondents should ensure delivery of the available timer, within three weeks from the date of the order.
6. The delivery of the timber shall be as per the High Seas Agreement dated 15-11-2002 and the purchase contract dated 6-1-2003 entered into between the parties as per which, no Sales Tax is payable at this point. If the petitioner sells the timber to third parties the liability of payment of Sales Tax is that of the petitioner alone. The responsibility of paying the Sales Tax shall be of the petitioner alone.

Both the counsel requested the Court to adjourn the matter by three more weeks to enable the parties to report to this Court for passing a final order. Let the C.R.P. be posted “For Orders” on 12-12-2003.

ASSISTANT REGISTRAR

// TRUE COPY //

For ASSISTANT REGISTRAR

To

1. The II Additional Chief Judge, City Civil Court, Hyderabad.
2. One spare copy.

MSR

HIGH COURT

DATE: 21-11-2003

ORDER

C.R.P. No. 3061 of 2003

DIRECTION

MSR
Date of drafting: 1-12-2003

HIGH COURT

DR MBNJ

DATE: 21-11-2003

NOTE: POST THE C.R.P. BE POSTED
FOR ORDERS ON 12-12-2003

ORDER

C.R.P. No. 3061 of 2003

DIRECTION